

1

2

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

7 ANTHONY RAY McFARLAND,

8 Plaintiff,

No. C 11-3465 PJH (PR)

9 vs.

**ORDER OF DISMISSAL**10 KENNETH W. KAISER, in his  
11 official and private capacities,12 Defendant.  
13 \_\_\_\_\_ /14 This is a civil rights case filed pro se by a plaintiff currently confined at Atascadero  
15 State Hospital in Atascadero, California. Because the defendant is an Assistant Director of  
16 the FBI, the complaint was treated as being brought pursuant to *Bivens v. Six Unknown  
17 Named Agents*, 403 U.S. 388, 392-97 (1971), which provides a cause of action against  
18 federal employees that is somewhat similar to section 1983 civil rights actions against state  
19 and local governmental actors.20 The complaint was dismissed with leave to amend because plaintiff provided only  
21 conclusory allegations of the defendant's role in the purported violations of his rights; he did  
22 not say what Kaiser actually did that caused the violations, or provide sufficient facts to  
23 make it plausible that defendant was personally involved in them.24 In the amendment plaintiff asserts in conclusory fashion that defendant  
25 communicated from his office in Washington, D.C., to local FBI agents, instructing them to  
26 violate his rights. His allegations as to what the local agents did are again conclusory: that  
27 the agents subjected him to discrimination because he is an African-American Baptist  
28 preacher, did not permit him to perform a citizen's arrest, covered up crimes within their  
jurisdiction, subjected him to torture, and falsified unspecified records.

1 Plaintiff's allegations are again conclusory, and do not state facts that make it  
2 plausible that the defendant violated plaintiff's rights. The complaint is **DISMISSED** for  
3 failure to state a claim. The clerk shall close the file.

4 **IT IS SO ORDERED.**

5 Dated: July 30, 2012.

---

PHYLLIS J. HAMILTON  
United States District Judge